

REMARKS

Reexamination and reconsideration of claims 74, 76, and 78-90 are respectfully requested. **Additionally, Applicants respectfully request entry of this reply into the record because it places the issues in better condition for appeal.**

Claims 74, 76, 78-81, 83-86, and 88-90 were rejected under 35 U.S.C. sec. 103(a) applying U.K. Pat. App. No. 2,277,812 (the '812 reference) in view of U.S. Pat. No. 5,283,853 (the '853 patent), and WO 90/08336 (the '336 reference). For publications to be applicable under sec. 103(a), the combination of teachings must, *inter alia*, expressly or inherently, teach, disclose, or suggest each and every feature of the claimed invention. Additionally, motivation and suggestion to combine the patents must be present.

Applicants wish to address the *Response to Arguments* section of the Office Action dated May 21, 2004 point by point. First, the *Response to Arguments* section states, in part, the following at p. 2:

In particular, Applicants argue that the waveguide-receiving pipes are a portion of the respective fiber optic cable along with optical waveguides. The Examiner respectfully disagrees. Firstly, the *claimed limitations fail to recite the waveguide receiving pipes being a portion of the respective fiber optic cable along with the optical waveguides, only that the fiber optic cables comprise waveguide receiving pipes and optical waveguides.* (emphasis added)

Applicants have attempted to understand the logic of this position, but cannot understand the position of the Office Action. Instead, this passage in the Office Action supports applicant's position by stating that "...the fiber optic cables comprise waveguide receiving pipes and optical waveguides." After reading this passage and claims 74, 81, and 86, how it can be asserted that the waveguide-receiving pipes are not a portion

of the fiber optic cables when the claims 74, 81, and 86 recite "...said fiber optic cables comprising waveguide-receiving pipes and optical waveguides..." is beyond Applicant's comprehension. See claim 74 recitation (b), claim 81 recitation (b), and claim 86 recitation (c). Moreover, the Office Action offer no credible objective evidence of record or explanation of its position.

Second, the Response to Arguments section states, in part, the following with respect to the teaching of the '853 reference at pp. 2-3:

Secondly, Applicants argue that flexible sleeve 14 of Szegda '853 is disposed outward of cable 2, and hence is not part of the cable. However, Figure 2 of Szegda '853 discloses the flexible sleeve 14 in contact via compressible pressure with cable 2, and hence the flexible sleeve may be construed as being part of cable 2.

Besides totally ignoring all of the objective evidence of record regarding flexible sleeve 14 of the '853 reference, the logic of the Office Action is absurd. Figs. 3 and 4 depict the individual components of the end connector 100 of which flexible sleeve 14 is depicted as a component thereof. See Figs. 3 and 4 along with Col. 2, ll. 18-24 of the '853 reference. Moreover, the '853 reference explicitly states "...end connector in accordance with the present invention includes a clamping portion which comprises a flexible sleeve 14 and a compression grommet 16." See Col. 2, ll. 50-53 of the '853 reference. Clearly, the objective evidence is overwhelming that flexible sleeve 14 is a portion of end connector 100, to say otherwise contradicts the express teaching of the '853 patent. Furthermore, using the logic of the Office Action anything that contacts the tubular support structure 2 is part of the cable. This is assertion is absolutely absurd. By way of example, using this logic if the craftsman grabs a cable with his hand, then his hand becomes part of the cable. The objective evidence of record reveals that it is beyond question that flexible sleeve 14 is a component of end

connector 100.

Moreover, the passage from the '853 reference stating that the "...end connector in accordance with the present invention includes a clamping portion which comprises a flexible sleeve 14 and a compression grommet 16" was pointed out in Applicant's last Reply. See Col. 2, ll. 50-53 of the '853 reference and p. 7 of Applicant's Reply dated December 22, 2003. However, the Office Action dated May 21, 2004 never acknowledges or address this express objective evidence of the '853 reference pointed out by the Applicant. Instead, the Office Action asserts an arbitrary and capricious interpretation for flexible sleeve 14 of end connector 100 of the '853 reference.

Third, the Response to Arguments section states, in part, the following with respect to the teaching of the '853 reference at pp. 2-3:

Thirdly, the Applicants argue, and wrongly assume, that flexible sleeve 14 of Szegda '853 is not a portion of the cable because it does not extend the length of the cable/fiber. If this were so, then the cable 2 would also not be part of the optical fiber cable surrounding optical fibers 4 since the cable 2 also does not extend the length of the cable/fiber. However, with the flexible sleeve 14 being disposed around and in tight contact with the cable 2, the flexible sleeve 14 may be construed as being a part of the cable 2.

Besides, making assertions regarding flexible sleeve 14 of the '853 reference that are contrary to the objective evidence of the same, the Office Action distorts applicant's arguments. Of course, the skilled artisan would have understood that in order to make optical connections portions of the cable would be stripped back from an end thereof as shown in the '853 reference, thereby allowing access to the ends of the optical fibers for connectorization. Applicants' point is that flexible sleeve 14 only extends for a small fraction of the entire length of the cable once end connector 100 is installed. This is because

flexible sleeve 14 of the '853 reference is component of end connector 100 that is used for clamping. Moreover, when the cable is manufactured, flexible sleeve 14 is not present; likewise, when the cable is stored on a reel flexible sleeve 14 is not present. It is only when the cable is being used in an application requiring the end connector of the '853 reference that flexible sleeve 14 is installed. Moreover, the Office Action position that flexible sleeve 14 is disposed around and in tight contact with the cable 2 and, thus, becomes part of the cable is not supported by any credible evidence of record. Instead, the objective evidence expressly states that flexible sleeve 14 is a component of end connector 100. See Col. 2, ll. 50-53 of the '853 reference.

Next, the Response to Arguments section states, in part, the following with respect to the teachings of the '853 and '336 references at pp. 3-4:

The Applicants further argue, with respect to Claims 74, 81, and 86, that Finzel in view of Szegda '853 and Theys et al. fail to teach or reasonably suggest the waveguide-receiving pipes terminating at the sealing connection and being disposed exteriorly of the closure body interior space so that respective terminal ends sections of the lead-in spigots and the waveguide-receiving pipes are in contact. The Examiner respectfully disagrees. It is noted that the waveguide-receiving pipes (i.e. the flexible sleeve [1]4 of Szegda '853) terminates at the sealing connection (i.e. compression nut 18 in Figure 2 of Szegda '853) and is disposed exteriorly of the closure body interior space (See the space to the right of device 20 in Figure 2 of Szegda '853) so that respective terminal end sections of the lead-in spigots (See housing 10 in Figure 2 of Szegda '853) and the waveguide-receiving pipes are in contact (See region where 10 and 14 are in contact in Figure 2 of Szegda '853). Further, with regard to Theys et al., Examiner notes that Theys et al. discloses the cable (i.e. waveguide-receiving pipes; See 32 in Figure 11) passing through the outlet (i.e. lead-in spigot; See 31 in Figure 11), but does not disclose that the cable terminating inside the closure body interior space (See interior of 22 in Fig. 11). Hence, one skilled in the

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art may reason that the cable end may terminate at the outlet and in contact with the outlet, a sealing connection (See 30 in Figure 11) connecting the cable and outlet.

Again, flexible sleeve 14 is just what the '853 reference states it to be, namely, a flexible sleeve of end connector 100 used for clamping purposes, not a portion of a fiber optic cable as asserted in the Office Action. See Col. 2, ll. 50-53 and Figs. 3 and 4 of the '853 reference. Therefore, the purported modification does not meet each and every limitation of independent claims 74, 81, and 86.

Regarding the '336 reference [Theys et al.], the Office Action is either not understanding the teaching or ignoring the objective evidence of the '336 reference. In any case, the statement regarding the '336 reference is not understood by Applicant, and as best understood is irrelevant because it does not teach the recited limitations of claims 74, 81, or 86. As stated previously, the '336 reference expressly states the following at the third full paragraph at p. 5:

The outlets [31] are preferably in the form of tubes protruding from the base (or other part) of the hollow article, and means is preferably provided for environmentally sealing the outlets to the cables that pass through them.

In other words, the '336 patent expressly teaches that the entirety of the cables enter and pass through the outlets and the same is admitted in the Office Action. Since the cable pass through outlets 31 they must enter the interior space of the enclosure since that is where outlets 31 lead to. The Office Action does not cite any credible objective evidence whatsoever to support its contrary position to the express teaching that "...one skilled in the art may reason that the cable end may terminate at the outlet and in contact with the outlet..." Clearly, the express teaching of the '336 reference states "...environmentally sealing the outlets to the cables that pass

through them [the outlets]." Thus, as expressly taught by the '336 reference, respective cables 32 pass through respective outlets 31 and they do not "...terminate at the outlet..." as put forth in the Office Action. See the third full paragraph at p. 5 along with Fig. 11 of the '336 reference.

Finally, the Response to Arguments section states, in part, the following with respect to the teaching of the '336 reference at p. 4:

The Applicants further argue that, with respect to Claims 74, 81, and 86, that Finzel in view of Szegda '853 and Theys et al. [the '336 reference] fail to teach or reasonably suggest the interior space of the cable closure body being at least partially defined by a wall surface of the closure body, the wall surface comprising at least one ledge for supporting a waveguide tray. The Examiner respectfully disagrees. Theys et al specifically discloses the interior space (See interior of 2 in Figure 1; interior of 22 in Figure 11) of the cable closure body being at least partially defined by a wall surface (See in particular the inner wall surface of 11 in Figure 2a) of the closure body, the wall surface comprising at least one ledge (See ledge 7 in Figure 1; 13, 7 in Figure 2a) for supporting a waveguide tray (See 10 in Figure 1). It is noted that the ledge is attached to the wall surface, and hence the ledge may be construed as being a part of the wall surface.

First, the recitation "...of an interior space of said cable closure body, said interior space being at least partially defined by a wall surface of the closure body, said wall surface comprising at least one ledge for supporting a waveguide tray..." is cited in claim 86 and not claims 74 and 81. As in the previous Reply, Applicant is making this argument with respect to independent claim 86 and the argument is relevant to dependent claims 80 and 85. As depicted in Figs. 1, 2a, and 2b of the '336 reference, trays 5 are pivotly attached to carrier 7, i.e., a bracket that is fixed to base 1. The objective evidence of the '336 patent is discussed at p.9 and is absolutely clear by stating:

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The trays [5] are preferably held in an orderly fashion on a carrier 7 [i.e. a bracket] which is fixed to the base 1.

There is no possible way that carrier 7 [i.e. the bracket] defines an interior space defined by a wall surface of the cable closure body, the wall surface having at least on ledge for supporting a waveguide tray. Rather carrier 7 is suspended in the interior space of the cable closure body by being fixed to base 1. The cable closure body of the '336 reference is dome-shaped cover 2 that defines the interior space, which attaches to base 1.

Thus, it is respectfully submitted for the reasons stated previously and the reasons stated herein that the purported combination of references does not teach, disclose, or otherwise suggest each and every feature of independent claims 74, 81, or 86.

Moreover, the objective evidence of record is counter to the Response to Arguments made in the Office Action. Because the purported combination fails to disclose the all of the merits of claim 74, the Office Action failed to make a *prima facie* case of obviousness. Specifically, the purported modification of references fails to teach, disclose, or otherwise suggest waveguide receiving pipes being connected to the lead-in spigots by respective sealing connections with the waveguide-receiving pipes terminating at the sealing connection and being disposed exteriorly of the closure body interior space as recited in claim 74. Therefore, the withdrawal of the 35 U.S.C. sec. 103(a) rejection of claims 74, 76, and 78-80 is warranted and respectfully requested.

Likewise, it is respectfully submitted that the purported combination of references does not teach, disclose, or otherwise suggest each and every feature of independent claim 81. Specifically, claim 81 recites, *inter alia*, waveguide receiving pipes terminating at the sealing connection and being disposed

exteriorly of the closure body interior space so that respective terminal end sections of the lead-in spigots and the waveguide-receiving pipes are in contact *as depicted, for example, in Fig. 7*. Similarly, claim 81 recites that waveguide-receiving pipes form a portion of respective fiber optic cables along with optical waveguides. None of the references of record, alone or in combination, teach each and every limitation of claim 81.

For the reasons discussed herein, flexible sleeve 14 of the '853 patent is not a waveguide-receiving pipe as recited in claims 74, 81, and 86. Since the purported combination does not teach, suggest, or otherwise disclose all the merits of claim 81, the Office Action failed to make a *prima facie* case of obviousness. Therefore, the withdrawal of the 35 U.S.C. sec. 103(a) rejection of claims 81-85 is warranted and respectfully requested.

Additionally, the Office Action states that "...Theys et al. [the '336 publication] further teaches a splice case for an optical fiber cable (See Figures 1 and 11) wherein the outer surfaces of the cable lead-in spigots (See 31 in Figure 11) and the waveguide-receiving pipes (See 32 in Figure 11), which terminate at the sealing connection and are disposed exteriorly of the closure body interior space (See Figure 11)..." See p. 3 of the Office Action. This statement contradicts the text of the '366 publication as discussed above. See, for instance, the third full paragraph on p. 5 of the '336 publication.

Furthermore, it is respectfully submitted that the purported combination of references does not teach, disclose, or otherwise suggest each and every feature of the independent claim 86. Specifically, claim 86 recites, *inter alia*, a cable closure body having an interior space defined by a wall surface of the closure body, the wall surface having at least one ledge for supporting a waveguide tray.

Applicants assert that the Office Action misinterpreted the



references with respect to claim 86. Claim 86 recites structure, which is different and patentably distinct from the purported modification.

Specifically, claim 86 recites, *inter alia*, an interior space of the cable closure body being at least partially defined by a wall surface of the closure body, the wall surface having at least one ledge for supporting a waveguide tray. As discussed, the '336 reference expressly teaches that tray 5 is supported by bracket 7. Bracket 7 is not a cable closure body as recited in claim 86, rather cover 2 is the closure body of the splice case in Fig. 1. For at least this reason, the purported combination does not teach, suggest, or otherwise disclose all the merits of claim 86. The withdrawal of the 35 U.S.C. sec. 103(a) rejection of claims 86-90 is warranted and respectfully requested.

Furthermore, besides not teaching each and every limitation claims 74, 81, and 86, the skilled artisan would not be motivated to make the purported modification of references.


Claims 82 and 87 were rejected under 35 U.S.C. sec. 103(a) applying the '812, '853, and '336 publications in view of U.S. Pat. No. 5,695,224 (the '224 reference). For at least the reasons stated above with respect to independent claims 81 and 86, withdrawal of the 35 U.S.C. sec. 103(a) rejection of claims 82 and 87 is respectfully requested. Moreover, the '224 reference is directed to fluid-tight pipe coupling assemblies and is not analogous art to the field of optical-fiber transmission systems.

No new fees are believed due in connection with this Reply. If any fees are due in connection with this Reply, please charge any fees, or credit any overpayment, to Deposit Account Number 50-0425.

Allowance of all pending claims is believed to be warranted and is respectfully requested.

The Examiner is welcomed to telephone the undersigned to discuss the merits of this patent application.

Respectfully submitted,

  
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